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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

Ex parte LEO PEDLOW
and BRANT CANDELORE

Appeal 2011-011030
Application 12/782,094
Technology Center 3600

Before: MURRIEL E. CRAWFORD, MICHAEL W. KIM, and THOMAS F. SMEGAL, *Administrative Patent Judges*.

KIM, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal from the final rejection of claims 1-19[1]. We have jurisdiction to review the case under 35 U.S.C. §§ 134 and 6.

The invention relates generally to geographic Internet asset filtering for Internet video clients including but not limited to TVs (Spec. 1).

Claim 1, reproduced below, is further illustrative of the claimed subject matter.

> 1. Consumer electronic (CE) device comprising:
> housing;
> display on the housing;
> network interface;
> processor in the housing controlling the display and communicating with the Internet through the network interface;
> the processor executing logic including:
> contacting a management server;
> providing an Internet Protocol (IP) address to the management server, the IP address being associated with a geographic location associated with the CE device;
> receiving from the management server a user token and at least one geographically-tailored service list, the service list containing only content server addresses that have been approved for access in the geographic region indicated by the IP address of the CE device, the server addresses being uniform resource locators (URLs);
> presenting the service list on the display; and
> responsive to a user selection of an entry on the service list, accessing a content server associated with the entry, wherein as part of the accessing of a content server the processor also provides the user token such that the CE device receives a content list of available content

[1] Our decision will make reference to the Appellants' Appeal Brief ("App. Br.," filed March 1, 2011) and the Reply Brief ("Rep. Br.," filed May 13, 2011), and the Examiner's Answer ("Ans.," mailed May 11, 2011).

> from the content server only responsive to the content server receiving the user token, checking the user token against a local database of active tokens, and responsive to the user token being in the database, the content server returns the content list to the CE device such that no further authentication is required between the CE device and content server beyond the provisioning of a valid user token by the CE device, and further wherein, responsive to a determination that the content server appears on the service list provided by the management server, the CE device trusts the content server without need for any further authentication on the part of the content server.

Claims 1-19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Krishnamoorthi (U.S. 2010/0080163 A1; pub. Apr. 1, 2010), Fiatal (U.S. 2009/0181641 A1; pub. Jul. 16, 2009), and Blinn (U.S. 2010/0042735 A1; pub. Feb. 18, 2010).

We AFFIRM-IN-PART.

FINDINGS OF FACT

Krishnamoorthi

FF1. Krishnamoorthi discloses that electronic devices such as mobile telephone handsets and other terminals may be configured to receive a variety of multimedia content items, such as sports, entertainment, informational programs, or other multimedia content items via broadcast, multicast or unicast transmission (para. [0002]).

FF2. Figure 17 of Krishnamoorthi is shown below:

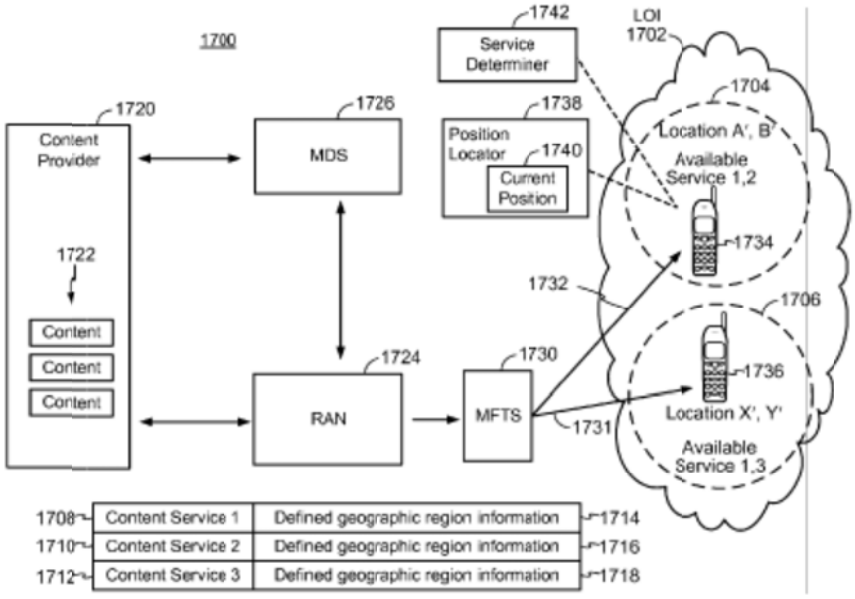

FIG. 17

Figure 17 depicts a venue-cast system including targeted content.

FF3. In Figure 17, one or more geographic areas, such as regions 1702, 1704, and 1706, are defined, and ***one or more content services, such as services 1708, 1710, and 1712, may be designated for each of the one or more regions*** in order to provide targeted programming. Each defined geographic area may be actively managed by an operator so that the area can be defined and re-defined as desired (para. [0181]).

FF4. A multipurpose mobile device may download such venue specific applications and information upon entering the venue (para. [0281]).

FF5. For sporting events involving multiple opposing teams, the display on the mobile device may be themed to fans of the different teams. For example, a welcome screen on the mobile device may prompt a user to select a team (para. [0282]).

Fiatal

FF6. Personal computing device 130 may be configured to receive an authentication token from mobile device 120 to authorize mobile device 120 prior to providing data and/or services to mobile device 120. The authentication token may be an identifying element associated with the user of mobile device 120 or mobile device 120 itself (para. [0071]).

FF7. Personal computing device 130 may allow mobile device 120 to access network services and servers such as content provider 110 via a proxy application (para. [0072]).

FF8. The server may authenticate and provides services, such as digital content, to mobile device 120 based on the authentication token (paras. [0075]-[0077]).

ANALYSIS

Obviousness Rejection of Independent Claim 1

We are not persuaded the Examiner erred in asserting that a combination of Krishnamoorthi, Fiatal, and Blinn renders obvious independent claim 1 (App. Br. 6-8; Reply Br. 1-4). Appellants assert that Krishnamoorthi does not disclose "receiving from the management server a user token and at least one geographically-tailored service list," as recited in independent claim 1. Appellants' assertions are misplaced, as a combination of Krishnamoorthi and Fiatal, and not Krishnamoorthi alone, is cited for disclosing the aforementioned limitation of independent claim 1. Specifically, Fiatal discloses that mobile device 120 provides an authentication token, the server of content provider 110 via personal computing device 130 (para. [0071]). The authentication token had to

originate somewhere. And there are only a finite number of options from where the authentication token could have originated. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 402-03 (2007).

> [w]hen there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill in the art has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense.

Of those options, a management server associated with content provider 110 is the most logical, as Fiatal further discloses that the authorization token causes mobile device 120 to be authenticated by the server of content provider 110, and authorizes the server of content provider 110 to provide data and/or services to mobile device 120 (para. [0071]). One of ordinary skill would understand that mobile device 120 most likely received that authentication token from the management server associated with content provider 110, such that content provider 110 could control access to itself. The Examiner then cites Krishnamoorthi for the proposition that such data and/or services may include content services 1, 2, 3 in Figure 17, only a subset of which are available at a given geographic location (para. [0181]). For example, Figure 17 shows that second region 1704 only receives content services 1, 2, while third region 1706 only receives content services 1, 3. As for the recited "geographically-tailored service list," the Examiner cites paragraphs [0281]-[0282] of Krishnamoorthi as disclosing a venue specific list of teams (i.e., a specific type of content services 1, 2, 3) for user selection.

Appellants also assert the following:

> First, the Answer declares that "content service 1-3" are available within each location (Answer, bottom of page 13). However, the relied-upon portion of figure 17 of [Krishnamoorthi] illustrating the "content services 1-3" is not a list as claimed and moreover as paragraph 181 clearly reveals the relied-upon services 1-3 are individually available only in respective individual locations. No service is available in more than one location. Claim 1 does not recite being "available" and furthermore requires ***a*** list to contain content server ***addresses***, whereas the table in figure 17 of [Krishnamoorthi] simply shows a one-to-one service-to-location correspondence.

(Rep. Br. 3). We disagree. As set forth above, Figure 17 of Krishnamoorthi discloses that certain content services 1, 2, 3 are available in more than one location. For example, Figure 17 shows that second region 1704 receives content services 1, 2, while third region 1706 receives content services 1, 3. Content service 1 is available in both regions 1704, 1706. As for the list containing content server addresses, Blinn, not Krishnamoorthi, is cited for disclosing "the server addresses [for content services 1, 2, 3] being uniform resource locators (URLs) (0047; 0049)" (Ans. 8).

Appellants further assert that Fiatal does not disclose

> checking the user token against a local database of active tokens, and responsive to the user token being in the database, the content server returns the content list to the CE device such that no further authentication is required between the CE device and content server beyond the provisioning of a valid user token by the CE device,

as recited in independent claim 1. Specifically, Appellants assert that the authentication token in Fiatal is for setting up personal computing device 130 as a proxy to mobile device 120, and is unrelated to delivering a content list from content provider 110 to mobile device 120. We disagree.

Paragraphs [0075]-[0077] of Fiatal disclose that the authentication token from mobile device 120 is used by a server, related to content provider 110, to authenticate and provides services, such as digital content, to mobile device 120. We have already discussed above how Krishnamoorthi is cited for disclosing that such digital content and/or services may include a content list.

For the foregoing reasons, we sustain the Examiner's rejection of independent claim 1 as being unpatentable over Krishnamoorthi, Fiatal, and Blinn. We will also sustain the Examiner's rejection of claims 3-9 as being unpatentable over of Krishnamoorthi, Fiatal, and Blinn for the reason that Appellants have not challenged such with any reasonable specificity (*see In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987)).

Obviousness Rejection of Independent Claim 10

We are persuaded the Examiner erred in asserting that a combination of Krishnamoorthi, Fiatal, and Blinn discloses or suggests "providing to the content servers on the service lists a respective user token for each authorized user," as recited in independent claim 10 (App. Br. 9; Reply Br. 4-5). This limitation is not present in independent claim 1. Accordingly, as the Examiner's rejection of independent claim 1 did not address this limitation, we do not sustain the rejection of independent claim 10, or its dependent claims 11-13.

Obviousness Rejection of Independent Claim 14

We are not persuaded the Examiner erred in asserting that a combination of Krishnamoorthi, Fiatal, and Blinn renders obvious independent claim 14 (App. Br. 9; Reply Br. 5-6). Unlike Appellants'

assertions concerning the rejection of independent claim 10 in the Appeal Brief, which included specific limitations of independent claim 10, Appellants' assertions concerning the rejection of independent claim 14 in the Appeal Brief is the following: "[a]n explicit rejection of Claim 14 has not been made. Instead, Claim 14 has been lumped in with Claim 1 without separately addressing the specific elements of Claim 14. Accordingly, Appellant[s] can only repeat the identifications of the clear errors noted above" (App. Br. 9). Our analysis concerning the rejection of independent claim 1 set forth above is fully responsive to these assertions.

In the Reply Brief, Appellants, for the first time, cite limitations of independent claim 14 that differ from those of independent claim 1. These new assertions in the Reply Brief are not in response to any assertions set forth in the Examiner's Answer, and are thus untimely and waived. 37 C.F.R. § 41.37(c)(1)(vii) (second sentence); *see also In re Hyatt*, 211 F.3d 1367, 1373 (Fed. Cir. 2000) (an argument not first raised in the brief to the Board is waived on appeal); *cf. Ex parte Borden*, 93 USPQ2d 1473, 1477 (BPAI 2010) (informative) ("Properly interpreted, the Rules do not require the Board to take up a belated argument that has not been addressed by the Examiner, absent a showing of good cause.")

For the foregoing reasons, we sustain the Examiner's rejection of independent claim 14 as being unpatentable over Krishnamoorthi, Fiatal, and Blinn. We will also sustain the Examiner's rejection of claims 16-19 as being unpatentable over of Krishnamoorthi, Fiatal, and Blinn for the reason that Appellants have not challenged such with any reasonable specificity (*see In re Nielson*, 816 F.2d 1567, 1572 (Fed. Cir. 1987)).

Obviousness Rejection of Dependent Claims 2 and 15

We are persuaded the Examiner erred in asserting that Figure 28 and paragraph [0203] of Krishnamoorthi discloses or suggests "wherein the logic controls the processor to permit the user no access to Internet sites other than to the management server and content servers on the service," as recited in dependent claim 2 (App. Br. 9; Reply Br. 4). Dependent claim 15 recites a similar limitation. While the cited portions of Krishnamoorthi disclose that certain content from certain servers is delivered to the mobile device, they do not disclose that ***only*** those servers can deliver content to the mobile device.

We do not sustain the rejection of dependent claims 2 and 15.

DECISION

The decision of the Examiner to reject claims 1, 3-9, 14, and 16-19 is AFFIRMED.

The decision of the Examiner to reject claims 2, 10-13, and 15 is REVERSED.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

AFFIRMED-IN-PART

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